

### REMARKS

Claims 1-17 are pending in this application. Claims 18-41 have been withdrawn from consideration and stand cancelled. Independent claims 1 and 13 are amended above to further distinguish the claimed invention from the prior art of record. Claims 11 and 13 have been amended to correct a misidentification of the end of the cap feature that includes an angular wall. Claim 7 has been amended to provide an antecedent basis for the angular wall first end. Finally, claim 5 has been amended to better identify the feature of the applicator that includes the recited neck. No new matter has been added to the application by any of these claim amendments.

The Examiner's grounds for finally rejecting the application claims are overcome or are traversed as set forth below.

#### I. THE 112, 2<sup>nd</sup> PARAGRAPH REJECTION

The Examiner rejected claims 7 and 11-17 under 35 U.S.C. 112, second paragraph. The Applicants have overcome the Examiner's rejection as follows:

- We have amended claim 7 to provide antecedent basis for "the angular wall first end".
- We have amended claims 11 and 13 to indicate that the cap "second open end" includes an angular wall with threads.

#### II. TRAVERSE OF THE PRIOR ART REJECTION

The Examiner rejected claims 1-5 and 7-15 for being anticipated by the Coombs reference. The Examiner also rejected claims 6 and 17 as being obvious over the same reference. The Examiner's position is that the Coombs reference container is "capable" of returning to its original form after being squeezed. The Examiner, however, admits that the Coombs container is not capable of returning to its original form during operation.

##### A. Coombs Does Not Anticipate The Claimed Invention

Coombs does not anticipate the claimed invention. In order to anticipate, a single prior art reference must disclose *each and every* element of the claimed invention, and it must enable one skilled in the art to make the invention. *See in Re Robertson*, 169 F.3d 743 (Fed. Cir. 1999). Coombs does not anticipate the claimed invention at least because it does not disclose the claimed

"resilient" container. Moreover, Coombs cannot anticipate the claimed invention because it does not enable the claimed invention.

The Applicants do not agree that the Coombs reference discloses a container that is resilient such that it returns to its original form as is claimed. To the contrary, Coombs consistently discloses that container 12 is a "collapsible container or tube". (Col 3, lines 28-29 & Col. 3, line 58.) Moreover, Coombs teaches that the "collapsible" container is intended to collapse during use:

As the paint or other suitable striping material in the collapsible tube or container 12 is used up or consumed the body of the collapsible tube or container 12 may be wound or rolled upon itself and after the collapsible tube or container 12 has been emptied it may be readily removed from the stripping wheel-bearing unit or head 11 by detaching the externally threaded reduced neck portion 33 thereof from the internally threaded passage 32 in the adapter member 30, whereupon another and filled collapsible tube or container 12 may be inserted in place thereof. .

(Col 4, lines 14-25). Coombs does disclose:

- that collapsible container 12 is collapsible
- that collapsible container 12 is used by causing the container to collapse
- that collapsible container 12 is a one time use container that is replaced with a new container after it is empty.

Clearly, the collapsibility of the Coombs container is critical to the utility of the apparatus disclosed.

Coombs does not disclose or suggest:

- a container that is resilient
- a container that returns to its original form after being squeezed
- a container that can be refilled

The presently claimed container is "resilient" such that it "returns to its original form after being squeezed". It is the examiner's contention that the Coombs container is resilient because it is "capable" of being refilled. However, there is absolutely no support in Coombs for the examiner's position. Simply put, Coombs discloses a container that is collapsible. Coombs refers to the container over and over as being collapsible. Coombs never suggests that the collapsible container can be refilled. Nor does Coombs enable one of skill in the art to "uncollapse" the collapsible container by refilling it.

Nor is resiliency an inherent aspect of the Coombs container. One of ordinary skill in the

art would understand the Coombs container to be a collapsible one-time use container.

The examiner has analyzed Coombs in hindsight with the applicants invention in mind. Coombs on it face, and without the applicants invention in mind, discloses a collapsible container that is replaced when empty. The claimed invention, which includes a "resilient" container is not, therefore, anticipated by Coombs.

**B. The Amended Claims Are Not Anticipated By Or Obvious In View Of Coombs**

In order to obtain an early allowance of the above-captioned application, the Applicants have amended both independent claims to delete the requirement that the resilient container is "capable of" returning to its original form after being squeezed. The claims, as currently amended are directed to a resilient container that "returns to its original form after being squeezed." Thus, the resilient "capability" of the container is now a requirement. Support for this amendment is found in the specification at least at page 7, line 23 to page 8, line 2 & page 9, lines 1-7.

The Coombs container does not return to its original form after being squeezed. Instead, it collapses. This feature that the claimed container must return to its original form after being squeezed further distinguishes the claimed invention from the prior art of record. For, as the Examiner has admitted, Coombs does not disclose or suggest a container that is capable of returning to its original form during operation.

**CONCLUSION**

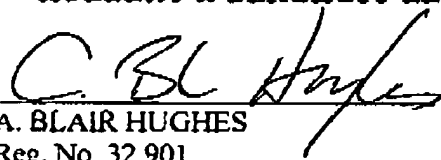
For the reasons set forth above, claims 1-17 are believed to be presently patentable. Favorable reconsideration and allowance of all pending claims is, therefore, courteously solicited.

Respectfully submitted,

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